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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/721,275	11/26/2003	Eric A. Merz	115863	5458
25944	7590	07/27/2005	EXAMINER	
OLIFF & BERRIDGE, PLC P.O. BOX 19928 ALEXANDRIA, VA 22320			DICT, RACHEL S	
			ART UNIT	PAPER NUMBER
			2853	

DATE MAILED: 07/27/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/721,275

Applicant(s)

MERZ ET AL.

Examiner

Rachel Dicht

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 26 November 2003.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-15 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,5,7-9,11,12,14 and 15 is/are rejected.
- 7) ☒ Claim(s) 2-4,6,10 and 13 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 26 November 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 11/26/2003 1-31-05
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1, 5, 7, 8, 9, 11, 12, 14, and 15 are rejected under 35 U.S.C. 102(b) as being anticipated by Uetsuki et al (US Pat. No. 6,447,084).

In regard to:

Claim 1:

Uetsuki et al. teaches a method for controllably refilling a fluid ejector having a refillable container (20, Fig. 2) usable to contain fluid, the fluid ejector ejecting fluid from the refillable container in response to ejection data contained in an ejection job, the method comprising: determining a first number of fluid ejection events remaining in the refillable container until the refillable container is to be refilled (refer to column 12 lines 29-34); determining a second number of fluid ejection events needed to complete the ejection job (refer to column 13 lines 24-33); and refilling the refillable container if either a first condition or a second number of fluid ejection events is greater than the determined first number of fluid ejection events (refer to column 13 lines 41-51), and the second condition is satisfied when the first number of fluid ejection events is at most zero (refer to column 13 lines 31-33).

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Claim 5:

Uetsuki et al. teaches a method wherein determining the first number of fluid ejection events comprises comparing fluid reserve capacity to an indicated fluid level (refer to column 13 lines 27-33).

Claim 7:

Uetsuki et al. teaches a method wherein comparing the fluid reserve capacity to the indicated fluid level comprises comparing the fluid reserve capacity to a refill threshold level (refer to column 13 lines 27-33).

Claim 8:

Uetsuki et al. teaches a method wherein determining the first number of fluid ejection events bases each fluid ejection event on a single ejection from the fluid ejector (refer to column 13 lines 41-45).

Claim 9:

Uetsuki et al. teaches a method wherein determining the first number of fluid ejection events comprises bases each fluid ejection event on a particular number of single ejections from fluid ejector (refer to column 13 lines 41-45).

Claim 11:

Uetsuki et al. teaches a fluid refill control system (25, Fig. 2) of a fluid ejector having a refillable reservoir (20, Fig. 2) usable to contain fluid comprising: a fluid ejection amount determining circuit, routine or application that determines an expended quantity of fluid released from the container in response to an occurrence of a number of fluid ejection events (refer to column 10, lines 23-25); a fluid reserve determining circuit, routine or application that determines a fluid reserve capacity and a fluid job requirement; and a refill condition determining circuit, routine or application that determines that the container is to be refilled upon at least one of a first condition where the fluid job requirement exceeds the fluid reserve capacity and a second condition, where the fluid reserve capacity is below a refill threshold, has been satisfied (refer to column 10 lines 12-29 and column 12 lines 26-36).

Claim 12:

Uetsuki et al. teaches a system further comprising: a count initializing circuit, routine or application that initializes at least one of an ejection event count and a reserve capacity count (refer to column 10 lines 22-23); and a count incrementing circuit, routine or application that adjusts at least one of the ejection event count and the reserve capacity count in response to a specific amount of fluid being ejected from the container (refer to column 10 lines 22-29 and column 13 lines 27-33).

Claim 14:

Uetsuki et al. teaches a system further comprising: a fluid level indicating circuit, routine or application that is usable with at least one fluid level indicator determine at least one fluid level in the container (refer to column 10 lines 22-29).

Claim 15:

Uetsuki et al. teaches a system wherein the fluid reserve determining circuit, routine or application that determines a fluid reserve capacity in the container based on the reserve capacity count and the expended quantity of fluid (refer to column 10 lines 22-29 and column 13 lines 27-33); a fluid job requirement circuit, routine or application that determines a fluid amount required to complete a current job based on the expended quantity of fluid and a number of fluid ejection events for the job (refer to column 10 lines 22-29 and column 13 lines 41-45); and a reserve comparing circuit, routine or application that compares the fluid reserve capacity and the fluid job requirement (refer to column 10 lines 22-29 and column 13 lines 27-33).

Allowable Subject Matter

3. Claims 2-4, 6, 10, and 13 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Contact Information

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Rachel Dicht whose telephone number is 571-272-8544. The examiner can normally be reached on 7:00 am - 3:30 pm Monday through Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Stephen Meier can be reached on 571-272-2149. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

RSD

July 21, 2005


MANISH S. SHAH
PRIMARY EXAMINER

7/25/05